

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

EDGARDO RODRÍGUEZ NIEVES, ET AL.

Plaintiffs

vs.

CARLOS M. GARCÍA, ET AL.

Defendant

CIVIL NO. 09-cv-01888 (SEC)

SUBJECT:

Civil Rights

ANSWER TO THE COMPLAINT

To the Honorable Court:

NOW COME Defendants Carlos M. Garcia, in his official capacity as **President** of the **GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO** (Banco Gubernamental de Fomento para Puerto Rico) (hereinafter “the Bank”) and Guillermo Camba Casas, in his official capacity as **Director of the Office of Human Resources and Labor Relations** of the Bank; and also in their personal capacities, through their respective undersigned attorneys, and most respectfully submit the answer to the present complaint as follows:

I. ALLEGED JURISDICTIONAL STATEMENT

1. From the allegations set forth in paragraph number one (1) of the complaint, it is ADMITTED that Plaintiff Edgardo Rodriguez Nieves (“Rodriguez Nieves”) is a career employee of the Government Development Bank for Puerto Rico (“Banco Gubernamental de Fomento Para

Puerto Rico”, hereinafter “BGF” by its acronym in Spanish or “GDB” by its acronym in English).

The rest is DENIED as stated.

2. The allegations of paragraph number two (2) of the complaint are of a legal nature and do not require a responsive pleading. If one is called for, they are DENIED.

3. The allegations of paragraph number three (3) of the complaint are of a legal nature and do not require a responsive pleading. If one is called for, they are DENIED.

4. The allegations of paragraph number four (4) of the complaint are of a legal nature and do not require a responsive pleading. If one is called for, they are DENIED.

5. Of the allegations contained in paragraph number five (5) of the complaint it is ADMITTED the legal age, residency and citizenship of Plaintiff Rodriguez Nieves. The rest is DENIED as stated.

6. Paragraph number six (6) of the complaint is DENIED as stated for lack of certain evidenced information.

7. Paragraph number seven (7) of the complaint is ADMITTED, except that the correct name of the position is Sub-Director of Human Resources and Labor Relations.

8. Of the allegations contained in paragraph number eight (8) of the complaint it is ADMITTED that Defendant Carlos M. Garcia (hereinafter “Garcia”) is the President of the Government Development Bank for Puerto Rico (“GDB”). The rest is DENIED as stated.

9. Paragraph number nine (9) of the complaint is DENIED as stated.

10. Of the allegations contained in paragraph number ten (10) of the complaint it is ADMITTED that Defendant Guillermo Camba Casas (hereinafter “Camba Casas”) is the Director

of Human Resources and Labor Relations at the Government Development Bank for Puerto Rico (“GDB”). The rest is DENIED as stated.

11. Paragraph number eleven (11) of the complaint is DENIED.

12. Paragraph number twelve (12) of the complaint is DENIED.

III. (sic) ALLEGED STATEMENT OF THE FACTS

13. The allegations of paragraph number 13 of the complaint are DENIED.

14. Of the allegations contained in paragraph number 14 of the complaint it is ADMITTED that Plaintiff Rodriguez is employed with GDB as a career managerial employee. The rest is DENIED as stated.

15. Paragraph number fifteen (15) of the complaint is ADMITTED.

16. Paragraph number sixteen (16) of the complaint is ADMITTED.

17. Paragraph number seventeen (17) of the complaint is DENIED.

18. Paragraph number eighteen (18) of the complaint is DENIED.

19. Paragraph number nineteen (19) of the complaint is DENIED.

20. Paragraph number twenty (20) of the complaint is DENIED.

21. Paragraph number twenty one (21) of the complaint is DENIED as stated.

22. Paragraph number twenty two (22) of the complaint is DENIED.

23. Paragraph number twenty three (23) of the complaint is DENIED. It is ADMITTED that Plaintiff Rodriguez Nieves was temporarily suspended from work but not pay pending an administrative investigation.

24. Paragraph number twenty four (24) of the complaint is DENIED.

25. Paragraph number twenty five (25) of the complaint is DENIED as stated.

26. Paragraph number twenty six (26) of the complaint is DENIED.

27. Paragraph number 27 of the complaint is DENIED.

**ALLEGED FIRST CAUSE OF ACTION
FIRST AMENDMENT
OF THE UNITED STATES CONSTITUTION**

28. Defendants repeat and incorporate all previous responses to the allegations contained thus far as if set forth fully herein.

29. The allegations of paragraph number twenty nine (29) of the complaint are of a legal nature and do not require a responsive pleading. If one is called for, they are DENIED.

30. The allegations of paragraph number thirty (30) of the complaint are of a legal nature and do not require a responsive pleading. If one is called for, they are DENIED.

31. The allegations of paragraph number thirty one (31) of the complaint are of a legal nature and do not require a responsive pleading. If one is called for, they are DENIED.

**ALLEGED SECOND CAUSE OF ACTION:
LAWS AND CONSTITUTION OF PUERTO RICO**

32. Defendants repeat and incorporate all previous responses to the allegations contained thus far as if set forth fully herein.

33. Paragraph number thirty three (33) of the complaint is DENIED.

34. Paragraph number thirty four (34) of the complaint is DENIED.

35. Paragraph number thirty five (35) of the complaint is DENIED.

ALLEGED JURY DEMAND

36. The allegations of paragraph number thirty six (36) of the complaint are of a legal nature and do not require a responsive pleading. If one is called for, they are DENIED.

ALLEGED PRAYER FOR RELIEF

The allegations contained paragraphs one (1) through eight (8) of the PRAYER FOR RELIEF do not require a responsive pleading. If one is called for, they are DENIED. All other allegations of the Verified Complaint not specifically ADMITTED are hereby DENIED.

AFFIRMATIVE DEFENSES

A. The Complaint fails to state sufficient facts to sustain a tenable cause of action in law or in equity, and upon which relief can be granted

B. Co defendants Carlos M. Garcia and Guillermo Camba Casas are protected by qualified immunity.

C. Co defendants never unlawfully or intentionally discriminated against Plaintiff Rodriguez Nieves.

D. Any and all employment actions that would have been taken by Co defendants towards Plaintiff Rodriguez Nieves were following sound business judgment, and in accordance with applicable laws.

E. Co defendants did not violate clearly established substantive or procedural due process law.

F. The position of Sub-Director of Human Resources and Labor Relations would have entailed or be significantly connected to policy making functions, even as an implementer or agency representative.

G. Plaintiff Rodriguez Nieves failed to establish a *prima facie* case or does not have a cognizable claim for political discrimination.

H. Alleged political beliefs or affiliation were not a motivating factor in any employment action relating to Plaintiff Rodriguez Nieves, and such would have occurred even in the absence of any alleged political beliefs.

I. The doctrine of *respondeat superior* is inapplicable to the allegations of the Complaint at bar.

J. Plaintiffs allegations do not meet the severity of harm test.

K. There is no causal link between Plaintiff Rodriguez Nieves' alleged political affiliation or beliefs and the alleged employment actions.

L. The allegations of Complaint at bar fail to fulfill the requirements as a matter of fact and law to show the existence of a *conspiracy* to deprive Plaintiff Rodriguez Nieves of any constitutional right.

M. The Court should decline to exercise supplemental jurisdiction over state law claims.

N. Plaintiffs have failed to establish a deprivation of property rights without due process or deprivation of any constitutional rights.

O. Some or all of the causes of action alleged in the complaint are time barred.

P. Plaintiffs have failed to mitigate their alleged damages.

Q. If plaintiff Rodriguez Nieves has suffered any loss of income or damages, it has been solely due to his own fault, negligence, acts or omissions.

R. Plaintiffs alleged damages are improper as a matter of fact and law, speculative, self inflicted, attributable to third parties, non existent, or grossly exaggerated.

S. The allegations of Plaintiff Rodriguez Rodriguez are contingent upon those of Plaintiff Rodriguez Nieves and as such are not tenable as a matter of fact and law.

T. Plaintiffs are not entitled to any kind of relief from this Court or a jury, be it legal or in equity.

U. Co Defendants do not waive and hereby reiterate any and all defenses presented in their previously filed Motion to Dismiss Pursuant to FRCP 12(b)(6).

V. The appearing Co defendants reserve the right to raise any additional defenses which may arise as a result of discovery.

WHEREFORE, it is respectfully requested that the Honorable Court, on the basis of the foregoing, **DENY** the captioned Complaint, with any other pronouncement which may be legally warranted.

In San Juan, Puerto Rico, this 30th day of December, 2009.

IT IS HEREBY CERTIFIED that on this same date of December 30th, 2009 I have filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Eileen Landrón Guardiola, Esq., of Landrón & Vera, LLP, elandron@landronvera.com; Eduardo Vera, Esq., and Luis Rodriguez Muñoz, Esq.

RESPECTFULLY SUBMITTED.

s/ Edgardo Colón Arrarás

EDGARDO COLÓN-ARRARÁS, ESQ.
USDC – PR 129612

Attorney for Defendants in their official capacity

Goldman Antonetti & Córdova, P.S.C.

P.O. Box 70364

San Juan, P.R. 00936-0364

Tel.: (787) 759-8000; Ext. 2321

Fax: (787) 474-2314

E-mail: ecolon@gaclaw.com

GUILLERMO SOMOZA

Acting Secretary of Justice

GRISEL SANTIAGO CALDERON

Deputy Secretary of Justice in Charge
of Litigation

WANDYMAR BURGOS VARGAS

Acting Director Federal Litigation
Division

s/ Luis D. Ortiz Abreu

LUIS D. ORTIZ-ABREU, ESQ.
USDC - PR 122113

Attorney for Defendants in their official capacity

Goldman Antonetti & Córdova, P.S.C.

P.O. Box 70364

San Juan, P.R. 00936-0364

Tel.: (787) 759-8000; Ext. 2227

Fax: (787) 767-9333

E-mail: lortiz@gaclaw.com

s/Yadhira RamírezToro

YADHIRA RAMIREZ TORO

USDC No. 217208

DEPARTMENT OF JUSTICE

GENERAL LITIGATION OFFICE

FEDERAL LITIGATION DIVISION

P.O. BOX 9020192

SAN JUAN, PUERTO RICO 00902-0192

TEL. (787) 721-5636

FAX (787) 723-9188

e-mail: yaelrivka@yahoo.com